

ESTTA Tracking number: **ESTTA102284**

Filing date: **10/03/2006**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	ISRAEL BERGER & ASSOCIATES, INC.		
Entity	Corporation	Citizenship	NEW YORK
Address	232 MADISON AVENUE 7TH FLOOR NEW YORK, NY 10016 UNITED STATES		
Attorney information	MARK E. STEIN, ESQ. LOTT & FRIEDLAND, P.A. 355 ALHAMBRA CIRCLE SUITE 1100 CORAL GABLES, FL 33134 UNITED STATES DKFRIEDLAND@LFIPLAW.COM, MESTEIN@LFIPLAW.COM, MTRAPAGA@LFIPLAW.COM Phone:305-448-7089		

Applicant Information

Application No	78842037	Publication date	10/03/2006
Opposition Filing Date	10/03/2006	Opposition Period Ends	11/02/2006
Applicant	IBA CONSULTANTS, INC. 6885 SW 18th Street, B7 Boca Raton, FL 33433 UNITED STATES		

Goods/Services Affected by Opposition

Class 042. First Use: 1996/01/31 First Use In Commerce: 1996/01/31 All goods and services in the class are opposed, namely: Engineering, consulting, inspection and testing services for glass and glazing systems, wall cladding, roofing and waterproofing and for compliance with building codes	
Related Proceedings	78811816
Attachments	OPP - notice of opposition -IBA (design).pdf (3 pages)(82665 bytes)
Signature	/Mark E. Stein/
Name	MARK E. STEIN, ESQ.
Date	10/03/2006

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

**ISRAEL BERGER & ASSOCIATES,
INC.,**

Opposer,

v.

IBA CONSULTANTS, INC.,

Applicant.

Opposition No. _____

NOTICE OF OPPOSITION

In the Matter of Application
Serial No. 78/842,037

Published in the Official Gazette

Date October 3, 2006

Mark: **IBA (design)**

NOTICE OF OPPOSITION

Opposer, ISRAEL BERGER & ASSOCIATES, INC., a corporation organized and existing under the laws of the State of New York, located and doing business at 232 Madison Avenue, New York, NY 10016, believes that it is or will be damaged by United States Trademark Application Serial No. 78/842,037 and hereby opposes the registration of same.

Upon information and belief, Applicant, IBA Consultants, Inc., a corporation organized and existing under the laws of the State of Florida, located and doing business at 6885 SW 18th Street, Suite B7, Boca Raton, FL 33433, is the owner of U.S. Trademark Application Serial No. 78/842,037, filed on February 10, 2006, for the mark IBA (design) (hereinafter referred to as “the Application”). Applicant seeks registration on the Principal Register in respect of “engineering, consulting, inspection and testing services for glass and glazing systems, wall cladding, roofing and waterproofing and for compliance with building codes” in International Class 42 and claims a date of first use

of January 31, 1996.

As grounds for opposition, it is alleged that:

1. Opposer believes that it will be damaged by registration of the mark shown in the above identified application.

2. Opposer is the prior user of the mark **IBA** in connection with “engineering, consulting, inspection and testing services for glass and glazing systems, wall cladding, roofing and waterproofing and for compliance with building codes,” in International Class 42. The common law trademark was first used in commerce by Opposer at least as early as 1994.

3. Applicant’s proposed mark is confusingly similar to the Opposer’s mark. In view of the similarity of the parties’ respective marks and the overlapping nature of the parties’ respective services, Applicant’s mark so resembles Opposer’s mark as to be likely to cause the public to be confused, mistaken, or deceived into believing that Applicant’s goods originate from Opposer or are in some way related to, associated with, or sponsored by Opposer.

4. Registration of the mark sought to be registered in Application Serial No. 78/842,037 is barred by provisions of Section 2(d) of the Trademark Act, 15 U.S.C. § 1052(d), in that it consists of or comprises a mark which so resembles a mark previously used in the United States by Opposer on related goods and services as to be likely to cause the public to be confused, mistaken or deceived.

5. Applicant’s Application injures Opposer by impairing Opposer’s ability to register other marks related to engineering services.

PRAYER FOR RELIEF

WHEREFORE, Opposer respectfully requests that the opposition be granted and the Applicant's mark, Serial No. 78/842,037, be denied registration.

Date: October 3, 2006

Respectfully submitted,

LOTT & FRIEDLAND, P.A.

/Mark E. Stein/

David K. Friedland

Mark E. Stein

355 Alhambra Circle

Suite 1100 (zip code: 33134)

P.O. Drawer 141098

Coral Gables, FL 33114-1098

(305)448-7089

Attorneys for Opposer

Israel Berger & Associates, Inc.